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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/495,818	02/01/2000	Preeti N Bhoi	10992634-1	5325

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EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2141

8
DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/495,818

Applicant(s)

BHOI ET AL.

Examiner

Stephan F Willett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The filed title is still too general as applicant's arguments exemplify.

Claim Rejections - 35 USC § 112

2. The applicant's amendments and arguments have overcome the 35 U.S.C. 112 rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Swales with Patent Number 6,321,272.

Regarding claim(s) 1, 14, Swales teaches a TCP/IP application that processes network external requests, col. 5, lines 9-13. Each of the queues described below has an interface that assists in fetching requests from the queues that reads on network interaction modules, for example, the server interface, col. 5, line 66; the client interface, col. 6, line

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7, the backplane driver, col. 6, lines 61-62 and “the PLC interfaces [network interaction module] with the web server”, col. 6, line 23. However, a more relevant network interaction module to the subsequent processing performed in claim 1 would be one described as “proxy is general purpose”, etc., col. 10, lines 25-32. Swales teaches a network request queue, col. 5, lines 47-50 and 66-67. Figures 2-3 do show the “external requests” are outside the Data Service System 20 and Server Application System 40, and emanate from outside Kernels 21, 41. The reference teaches numerous queues. Thus, external queues would clearly be “the ACM 79C961 [that] provides a transmit queue interface, a receive queue interface”, col. 5, lines 27-28. However “the server 58 interface uses queuing mechanism and call back functions”, col. 5, lines 66-67 which are external, especially when considered external relative to which application module. Note also that element 58 in Figure 3 is labeled client task versus tasks 60 and 62 which implies an external status. Claim 1 claims “fetched” and Swales describes a “passing” request method at col. 6, lines 1-22 along with “client application queues” that reads on the claimed external queues. Swales teaches determining whether a request will be processed, col. 8, lines 43-47. Swales teaches processing based on processing capacity and rate of requests, col. 11, lines 30-34, col. 12, lines 43-45, col. 13, lines 4-7, 34-38. Swales teaches internal queues as a client task, col. 6, lines 7-8 as MSTR block, col. 6, lines 28-31, server task, col. 8, lines 5-7, HTTP server task, col. 8, lines 53-54, etc., col. 8, lines 63-65. Swales teaches restricting requests to an application to achieve efficient processing of requests, col. 10, lines 32-41.

5. Regarding claims 2, Swales teaches rejecting certain requests, col. 10, lines 32-36.

6. Regarding claims 3, 9, 15, Swales teaches closing connections as “if the TCP/IP

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event is an accepted connection” and then “the client task processes the message to advance the transactions if there are any”, col. 7, lines 48-49, 51-52 and “the connection state machines are used for ... closing connections”, col. 7, lines 24-26. .

7. Regarding claims 4, 16, Swales teaches returning a rejection with a status code, col. 13, lines 56-62.
8. Regarding claims 5, 17, Swales teaches an HTTP response, col. 8, lines 56-57.
9. Regarding claims 6, 18, Swales teaches determining which requests are processed first, col. 6, lines 44-50.
10. Regarding claims 7, Swales teaches an internal queue of predetermined length, col. 13, lines 5-11. Swales teaches determining which requests will processed and sending them to an internal queue, col. 13, lines 56-60. Swales teaches notification of processing results, col. 7, lines 47-52.
11. Regarding claims 8, 10, 12, 19, Swales teaches an internal queue that equals the external queue that limits access to the internal queue, col. 8, lines 44-47. Swales teaches forwarding requests to the internal queue when they can be processed, col. 8, lines 48-51.
12. Regarding claims 11, 13, 20, Swales teaches processing requests based on load factors, col. 11, lines 33-34, 39-41, col. 14, lines 7-15.

Response to Amendment

18. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.
19. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive

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regarding patentability.

20. Applicant suggests “the Swales patent fails to teach or suggest ... processing capacity of the application module and the rate of the external requests arriving at an external queue”, Paper No. 6, Page 14, line 3-4. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. The clear description in the reference is not obfuscated by the numerous other suggested usages of said description in the reference, thus the applicant’s limited interpretation of the teachings is not reasonable. Specifically, Swales teaches applying processing capacity as “load factors”, col. 11, line 33 “by controlling the reported transmission window as seen by both participants in a connection”, col. 14, lines 30-31 and rate of requests as “the number of participants can be calculated”, col. 13, lines 37-38. The capacity of the network is inherently determined by monitoring relevant elements and the teachings clearly are not limited to the network itself in general. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

21. Applicant suggests “where a particular server is busy”, Paper No. 6, Page 15, line 14. The above argument is not commensurate with what is presently claimed and therefore will not be considered at this time. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.
5. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.


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November 5, 2003


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER